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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/781,040	02/18/2004	Dmitry Lubomirsky	008266/CMP/ECP	8367

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EXAMINER
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VAN, LUAN V

ART UNIT	PAPER NUMBER
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1753

DATE MAILED: 06/15/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action  
Before the Filing of an Appeal Brief**

Application No.

10/781,040

Applicant(s)

LUBOMIRSKY ET AL.

Examiner

Luan V. Van

Art Unit

1753

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 05 June 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.  
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**NOTICE OF APPEAL**

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

**AMENDMENTS**

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);  
(b) ☐ They raise the issue of new matter (see NOTE below);  
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  
The status of the claim(s) is (or will be) as follows:  
Claim(s) allowed: \_\_\_\_\_.  
Claim(s) objected to: \_\_\_\_\_.  
Claim(s) rejected: \_\_\_\_\_.  
Claim(s) withdrawn from consideration: \_\_\_\_\_.

**AFFIDAVIT OR OTHER EVIDENCE**

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

**REQUEST FOR RECONSIDERATION/OTHER**

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  
See Continuation Sheet.  
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). \_\_\_\_\_.  
13. ☐ Other: \_\_\_\_\_.

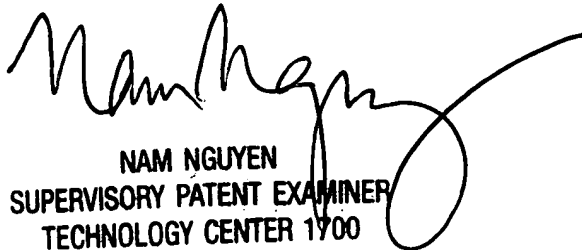
Continuation of 11. does NOT place the application in condition for allowance because:

Regarding the rejection under 35 USC 112, first paragraph, the argument against the rejection of claims 21-24 and 26 is found persuasive, thus the rejection of claims 21-24 and 26 under 35 USC 112, first paragraph, is withdrawn. However, the rejection of claim 25 under 35 USC 112, first paragraph, is maintained. The disclosure does not teach that the anode is not tilted. Furthermore, if the anode is not tilted, then both the intermediate position and the third tilt angle in claim 23 are in a horizontal position, since they are parallel to the surface of the anode. In addition, the second tilt angle, intermediate position and third tilt angle would have the same angle/position and would be indistinguishable.

With respect to the applicant's argument that Dordi et al. '578 do not teach tilting a receiving member and positioning a substrate to a first tilt angle, a second tilt angle, and a processing angle, the examiner respectfully disagrees. Dordi et al. '578 teach an electroplating method, comprising: tilting the substrate to a first tilt angle measured from horizontal (column 34 lines 30-54); displacing the receiving member toward the fluid solution at the first tilt angle (column 34 lines 55-64); and tilting the receiving member to a second tilt angle or processing angle (column 38 lines 41-57) measured from horizontal when the substrate contacts the fluid solution, the second tilt angle being different from the first tilt angle. In this case, the second tilt angle of Dordi et al. '578 is the same as the processing angle. Dordi et al. '578 differs from the instant claims in that the reference teaches positioning the substrate parallel to the surface of the anode but does not explicitly disclose the specific processing angle of the instant claims. Since the anode of Dordi et al. '578 is not tilted, the processing angle is maintained in a horizontal position.

Sendai et al. teach an electroplating method in which the substrate and the anode are positioned substantially parallel to each other and are tilted from horizontal at an angle of between about 1 and 10 degrees (paragraph 91) during the electroplating process. Thus, the processing angle of Sendai et al. is between about 1 and 10 degrees from horizontal, which is within the range of the instant claims. The substrate and anode are tilted in order to inhibit air bubbles from remaining on the surface of the substrate to be plated, thus preventing defects in the plated film (paragraph 96).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the method of Dordi et al. '578 by tilting the substrate and anode to the processing angle of Sendai et al., because it would prevent air bubbles from remaining on the surface to be plated, thus preventing defects in the plated film (paragraph 96 of Sendai et al.) The teachings of Sendai et al. provide a clear motivation for modifying the process angle of Dordi et al. '578.

  
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